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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,178

12/09/2005

Scott Benton

1383

60333

7590

02/28/2008

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EXAMINER

WENDELL, MARK R

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

02/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/560,178

**Applicant(s)**

BENTON, SCOTT

**Examiner**

MARK R. WENDELL

**Art Unit**

3635

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hershey (US 5867963) in view of Martin (US 5850721). Regarding claim 11, Hershey illustrates in Figure 1 a parallel chord truss (20) comprising:

- Elongated lateral chord members (22, 24) with at least one of the chord members being continuous;
- A penetrable separating member (28, 28A, 28B, 34A, 34B) in fixed engagement to at least one chord member (22, 24);
- A means for cross-bracing (52, 56) lateral chord members (22, 24) for permitting access to the penetrable separating member (52, 56).

However, Hershey does not distinctly teach the penetrable separating members having at least one aperture therethrough.

Martin illustrates in Figures 1, 3 and 4 a penetrable separating member (22) for permitting the passage of cabling (see abstract of Martin). It would have been obvious

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to one having ordinary skill in the art at the time of invention to modify the Hershey reference to include the penetrable web with an aperture instead of the solid web (34) in order to provide more apertures to pass utilities through (motivation from abstract of Martin).

Regarding claims 12 and 13, Hershey discloses in Column 1, lines 55-61, that the chord members are made from vertical plywood or particleboard. The examiner notes that plywood is a wood laminate.

Regarding claim 14, Hershey illustrates in Figure 1 that the penetrable separating member (28, 28A, 28B) is an elongate sheet material (wood) in sleeved engagement with each chord member (22, 24). Martin also shows in Figure 2 the separating member being an elongate sheet material in sleeved engagement with each chord member (24).

Regarding claim 15 and 16, Hershey discloses in Column 1, lines 55-61 that the penetrable separating member is made from particleboard.

Regarding claim 17, Hershey discloses in Column 3, lines 41-50 that the means for cross-bracing (52, 56) the lateral chord members (22, 24) is a multi-toothed nail plate connector nailed to the chord member. The examiner notes that nailing is a fastening form that requires pressing an object into another.

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Regarding claim 18, Hershey illustrates in Figure 1 the cross bracing members (52, 56) being oriented substantially diagonally across the penetrable separating member (28, 28A, 28B).

Regarding claim 19, Hershey illustrates in Figure 1 the cross-bracing members (52, 56) being in a substantially V-shaped pattern. The examiner notes that penetrable separating members (28, 28A, 28B) could also be considered cross-bracing members, and they are also substantially V-shaped.

Regarding claim 20, Hershey illustrates in Figure 1 a penetrable separating member (28, 28A, 28B) having apertures (26) so that cabling is passable. Also, it is shown in Martin that additional apertures (40) are present in the web separating member (22) for passing cabling through.

Regarding claim 21, Hershey illustrates in Figure 1 the lateral chord members having a discontinuous chord member to accommodate an obstacle positioned within an aperture.

### ***Response to Arguments***

Applicant's arguments with respect to claims 11-21 have been considered but are moot in view of the new ground(s) of rejection. The rejections are found above.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MARK R. WENDELL** whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot/  
Supervisory Patent Examiner, Art  
Unit 3635

/M. R. W./  
Examiner, Art Unit 3635  
February 15, 2008